

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 4/21/2015	(3) CONTACT/PHONE John Diodati, Project Manager/Department Administrator (805) 788-2832	
(4) SUBJECT Discussion and approval of the Resolution of Application and Plan for Services for the proposed Paso Robles Basin Water District and file a Notice of Exemption per Public Resources Code Section 21000 et seq. Districts 1 and 5.			
(5) RECOMMENDED ACTION It is recommended that the Board, acting as the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District (Flood Control District): <ol style="list-style-type: none"> 1. Review and approve the Local Agency Formation Commission (LAFCO) application material for the Paso Robles Basin Water District (Water District) formation, including the Resolution of Application; 2. Direct staff to submit the application material to LAFCO and work with LAFCO staff on holding a LAFCO hearing(s); and 3. Direct the Clerk to file a CEQA Notice of Exemption per Public Resources Code Section 21000 et seq. 			
(6) FUNDING SOURCE(S) Flood Control District Reserves	(7) CURRENT YEAR FINANCIAL IMPACT \$350,000.00	(8) ANNUAL FINANCIAL IMPACT \$200,000.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ____) <input checked="" type="checkbox"/> Board Business (Time Est. <u>120 min.</u>)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input type="checkbox"/> N/A	
(14) LOCATION MAP	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: 1/27/15, #23	
(17) ADMINISTRATIVE OFFICE REVIEW David E. Grim			
(18) SUPERVISOR DISTRICT(S) District 1 District 5			

Reference: 15PR21-BB-1

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works

John Diodati, Project Manager/Department Administrator

VIA: Wade Horton, Director of Public Works

DATE: 4/21/2015

SUBJECT: Discussion and approval of the Resolution of Application and Plan for Services for the proposed Paso Robles Basin Water District and file a Notice of Exemption per Public Resources Code Section 21000 et seq. Districts 1 and 5.

RECOMMENDATION

It is recommended that the Board, acting as the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District (Flood Control District):

1. Review and approve the Local Agency Formation Commission (LAFCO) application material for the Paso Robles Basin Water District (Water District) formation, including the Resolution of Application;
2. Direct staff to submit the application material to LAFCO and work with LAFCO staff on holding a LAFCO hearing(s); and
3. Direct the Clerk to file a CEQA Notice of Exemption per Public Resources Code Section 21000 et seq.

DISCUSSION

Background

Throughout 2014, there was ongoing discussion regarding increased management of the Paso Robles Groundwater Basin (Paso Basin).¹ The primary topics of discussion were: (1) whether the Paso Basin needs increased management; (2) the mechanism for providing such management; and (3) the entity to implement the selected mechanism.

Two stakeholder groups, the Paso Robles Agricultural Alliance for Groundwater Solutions and PRO Water Equity, proposed and supported the formation of a California Water District with a modified Board of Directors.² Assemblyman Katcho Achadjian introduced legislation reflective of this proposal

¹ On March 27, 2012, the Board adopted the Paso Robles Groundwater Basin Management Plan pursuant to Water Code Section 10750 et seq. (AB 3030).

² AB 2453 specifies that the Board of Directors shall consist of six directors elected by landowners and three directors elected by registered voters.

(AB 2453) that was signed by the Governor on September 16, 2014 and became effective on January 1, 2015.³ In addition to providing for a modified Board of Directors, AB 2453 authorizes the Paso Robles Basin Water District (Water District) to exercise a number of groundwater management powers, subject to approval by LAFCO in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.) (Cortese-Knox). AB 2453 also authorizes an affected local agency, including the Flood Control District, to apply to LAFCO by resolution to form the Water District.⁴ On January 27, 2014, your Board, acting as the Board for the Flood Control District, directed staff to return with a resolution of application and related material within ninety days.

Concurrent with AB 2453, Senator Pavley and Assemblyman Dickinson sponsored a three-bill package (Sustainable Groundwater Management Act or SGMA) creating a statewide system for managing groundwater resources that was also signed by the Governor on September 16, 2014 and became effective on January 1, 2015. SGMA imposes groundwater management requirements on basins designated by the Department of Water Resources (DWR) as high- or medium-priority basins pursuant to the California Statewide Groundwater Elevation Monitoring Program (CASGEM). SGMA permits the State Water Resources Control Board (SWRCB) to designate a high- or medium-priority basin as a “probationary basin” if a Groundwater Sustainability Agency(ies) (GSA) and a Groundwater Sustainability Plan(s) (GSP) for the basin are not established or adopted within certain specified time frames.

More specifically, the SWRCB may designate a high or medium-priority basin as a probationary basin unless one of the following has occurred on or before *June 30, 2017*: (a) a local agency has elected to be a GSA that intends to develop a GSP for the *entire* basin; (b) a collection of local agencies has formed a GSA or prepared agreements to develop one or more GSPs that will collectively serve as a GSP for the *entire* basin; (c) a local agency has submitted an alternative that has been approved or is pending approval by DWR.⁵ In addition, the SWRCB may designate a high- or medium-priority basin as a probationary basin unless one of the following has occurred on or before *January 31, 2022*: (a) a GSA has adopted a GSP for the *entire* basin; (b) a collection of local agencies has adopted GSPs that collectively serve the *entire* basin; (c) DWR has approved an alternative.⁶

It is anticipated that the Water District will form prior to these deadlines and will participate in a GSA with other affected local agencies that develops a GSP for the Paso Basin or will enter into agreement(s) with other affected local agencies to develop one or more GSPs for the Paso Basin consistent with Water Code Section 10727.

LAFCO Application

The LAFCO application process is initiated with the approval of a Resolution of Application and associated application materials by your Board, which is included as Attachment A. The following is a brief summary of the three primary components of the LAFCO application.

1. ***Resolution of Application.*** Formal request to LAFCO to institute proceedings for formation of the Water District pursuant to Cortese-Knox and AB 2453.

³ Application must be made by January 1, 2019 (Water Code § 37905(a)).

⁴ Water Code § 37905(a).

⁵ Water Code § 10735.2(a)(1).

⁶ Water Code § 10735.2(a)(4). For high- or medium-priority basins which DWR has designated in its report entitled California’s Groundwater: Bulletin 118 (Bulletin 118), as may be updated or revised on or before January 1, 2017, as “subject to critical conditions of overdraft,” the GSP deadline is shortened, and the SWRCB may designate such a basin as a probationary basin unless (a), (b) or (c) has occurred on or before *January 31, 2020* (Water Code § 10735.2(a)(2)).

2. *Plan for Services.* Provides information about the proposed Water District's level and range of services, projected costs of those services, and revenues needed to fund the proposed services. It must discuss the following and is included in this report as Attachment B:
 - (a) Description of services/powers;
 - (b) Identification of, and potential impacts to, existing service providers; and
 - (c) A plan for financing the proposed Water District
3. *Funding Mechanism.* Pursuant to Government Code Section 56886, LAFCO typically conditions a change of organization on approval of a funding source. The LAFCO application must contain anticipated costs to fund the Water District and a preliminary funding plan.

Water District Boundaries

Early proponents of the Water District worked to define the boundaries of the proposed Water District based on the Phase 1 Study of the Paso Basin prepared by Fugro and Cleath (2002) (Phase 1 Study). However, the boundaries defined in the Phase 1 Study differ from those set forth in Bulletin 118. This is significant given that SGMA requires management of an entire basin as identified in Bulletin 118.⁷ Although SGMA sets forth a general process by which a local agency can request that DWR revise the boundaries of a basin, including the establishment of new subbasins, regulations regarding the information necessary to support such a request will not be promulgated until January 1, 2016. Based on the foregoing, your Board on January 27, 2015 directed staff to define the Water District boundary in a manner that includes areas contained within the Bulletin 118 boundaries but not within the Phase 1 Study boundaries as Negative Spheres of Influence, thereby providing LAFCO with the ability to identify these areas for potential detachment in the event that an application to revise the Paso Basin boundaries in accordance with the Phase 1 Study is submitted to and approved by DWR. Your Board also directed staff to treat the Atascadero Subbasin differently than other areas falling within the Bulletin 118 boundaries but outside of the Phase 1 Study boundaries based on its identification as a subbasin with partial hydraulic separation by Fugro and Cleath. More specifically, the unincorporated parcels within the Atascadero Subbasin are excluded from the Water District boundaries but designated as a (positive) Sphere of Influence. The Subbasin would be considered for potential inclusion in the event that it is determined that the Subbasin cannot be separately managed, because e.g. certain purveyors cannot serve as a GSA, a management structure is not developed, or new information challenges prior conclusions. Attachment C is the final boundary map reflecting these determinations.

Water District Powers

AB 2453 authorizes the Water District, if formed, to exercise a broad range of powers, subject to review and approval by LAFCO in accordance with Cortese-Knox and obtaining consent from the County, Flood Control District, or other local agency(s) before engaging in any activities normally and historically undertaken by those agencies. Your Board directed staff to provide a side-by-side comparison of AB 2453 powers and SGMA powers. This comparison is found in the Plan for Services as Attachment A. The comparison also discusses additional powers available to all

⁷ Water Code § 10721(b) defines "basin" as a groundwater basin or subbasin identified and defined in Bulletin 118 or as modified pursuant to Chapter 3 (commencing with Section 10722).

California Water Districts under the California Water District Law as well as some of the powers enumerated within AB 2453, which implicate the above provision related to activities normally and historically undertaken by the County and/or Flood Control District. The LAFCO application requests activation of all available powers consistent with the limitations already contained within AB 2453.

Additionally, staff is recommending that your Board requests that one of the enumerated powers be classified as a latent power. Section 37921 of AB 2453 allows for the Water District to adopt emergency ordinances with an affirmative vote of only four board members. Staff believes this was a mistake and that the intent was to authorize the Water District to adopt emergency ordinances by an affirmative vote of seven members. Staff suggests that your Board recommend to LAFCO that the power to adopt emergency ordinances be made a latent power unless and until the State Legislature amends to AB 2453 to require seven affirmative votes.

Funding

A proposed Water District budget is included as Attachment D. The annual estimated cost of operating the Water District and complying with SGMA is \$950,000 per year. Staff is currently working with a government finance consultant, NBS, to explore potential funding mechanisms, including, without limitation, a special tax, a property-related fee and a regulatory fee, collectively referred to in this staff report as a “levy”. The approval process will vary depending on the type of levy selected. The NBS Report is provided as Attachment B in the Plan for Services. In addition to a discussion on potential funding mechanisms, the NBS Report provides a preliminary (and basic) allocation of costs for discussion purposes. Any final allocation of costs will be part of the official Proposition 218 process and subject to the allocation requirements of the specific levy chosen. It is anticipated that once the levy is decided, the \$950,000 will be allocated amongst the approximately 7,293 parcels within the Water District.

The NBS Report assumes a \$2 per acre levy would provide revenue of approximately \$907,584, a theoretical levy to use for discussion purposes, demonstrate to LAFCO the potential impact to funding the Water District, and which is almost enough to fund the preliminary budget. The actual levy for a \$950,000 Water District budget would be marginally higher at \$2.10 per acre. A detailed list of cost per the Assessor’s 103 land use categories at a theoretical levy of \$2 per acre is included in the NBS Report. Some highlights worth noting include the following:

- There are an estimated 1,386 Single Family Residential parcels with less than 2.49 acres. The estimated average levy for these parcels is \$3.25/year.
- Approximately 46% of the parcels in the Water District are Single Family Residential with less than 40 acres. The estimated average levy for these parcels ranges from \$3.25 to \$75.19 per year.
- Irrigated viticulture comprises approximately 54,046 acres or 12% of the Water District. The estimated average levy for this category is \$357.93 per year.

It is important to reiterate that this report is for discussion purposes only and not the final allocation of costs. Depending on the funding mechanism used, a more refined allocation of costs will still need to occur. For example this model levies \$2 per acre equally to all land use categories, and certain categories – such as Graze and Vacant Rural - may not justify the full allocation. A reduction in their allocation would increase the cost to other land use categories. The work effort to fully refine the allocation model of a potential levy will take place during the Proposition 218 proceedings and be consistent with legal requirements.

Your Board also requested a budget for SGMA compliance should the Flood Control District manage the Paso Basin. This budget is provided in Attachment E. This five year operating budget is \$925,000 annually, indicating a savings of \$25,000 per year. The savings in year 1 is a result of not having a board member election (\$15,000), payroll services (\$2,400) and reduced contingency (\$7,600). All other costs, including staff, are required in order to develop a GSP and comply with SGMA. Under the theoretical \$2/acre levy, funding the Flood Control District would result in a per acre savings of only 6 cents. That is, if you owned 100 acres, it would be \$6 per year more to have groundwater management by a locally managed, basin specific Water District.

Environmental Review

The Adoption of a Resolution making application to LAFCO for the formation of a Water District is not subject to CEQA, because the preparation of an EIR or Negative Declaration would be too early in the process to provide meaningful information for environmental assessment as described in State CEQA Guidelines Section 15004(b); and the activity includes the creation of a government funding mechanism or other fiscal activities which do not involve any commitment to any specific project which may result in potentially significant physical impacts on the environment as described in State CEQA Guidelines Section 15378(b)(4). Further discussion and a Notice of Exemption executed by the County Environmental Coordinator is included as Attachment F.

Next Steps

If the Board approves the Resolution of application, LAFCO will initiate review and work with County staff on any questions they may have or requests for supplemental information. LAFCO would then schedule a hearing(s) to deliberate on the application. If LAFCO approves the application, LAFCO will inform the Board (as the Board of the County) that a determination has been made that requires an election to be conducted and will request that the Board direct the County elections official to conduct the necessary election.⁸ Staff is optimistic that LAFCO can proceed quickly, initiate its review, and schedule meetings for early fall. It is anticipated that the Clerk will need approximately 90 – 120 days after a LAFCO determination has been made to conduct the elections. The elections are summarized in the following paragraphs.

Water District Formation Election. AB 2453 provides that “[e]ach voter, who shall be a landowner as defined in this section, may cast one vote on the matter of [...] an election to form the district. Ownership of multiple parcels of land, in full or in part, shall not entitle any voter to more than one vote.⁹ For land jointly held, owners collectively get one vote. Nothing in this section should be construed to indicate that multiple owners of a property get more than one vote.”¹⁰ If a majority of the votes cast at the election are in favor of the formation of the Water District, the formation will be complete subject to the satisfaction of any conditions (e.g. funding) imposed by LAFCO.¹¹

⁸Government Code § 57000(d).

⁹ Water Code § 37905(c)(1). Water Code Section 37905(a)(1) defines “landowner” as any person who holds title to land within the boundaries of the proposed district as shown on the last assessment roll prepared by the county assessor, or a legal representative of a landowner who holds title to land within the boundaries of the proposed district as shown on the last assessment roll prepared by the county assessor.”

¹⁰ Water Code § 37905(c)(2).

¹¹ Water Code § 37905(c)(6).

The Board of Directors elected to fill the offices of the proposed Water District if it is formed will be elected in accordance with the modified voting structure referenced above.¹² There will be a total of nine directors. Six of the directors (who must be landowners) will be elected by landowners in accordance with the following:

- Landowners owning less than forty acres (small landowners) elect two Directors;
- Landowners owning forty acres or more but less than four hundred acres (medium landowners) elect two Directors; and
- Landowners owning four hundred acres or more (large landowners) elect two Directors.

All Directors elected by landowners must reside within the proposed Water District or within certain identified surrounding areas. The Directors need not fall within the landowner category from which they are elected.

The remaining three directors (who must be registered voters) will be elected by registered voters within the proposed Water District.

If the Board files the application and LAFCO approves the application and requests the Board to direct the County elections official to conduct the necessary election, staff will return to your Board (as the Board of the County) for consideration of the request.¹³

Staff Direction

Staff is seeking approval of the LAFCO application for the Paso Robles Water District formation.

OTHER AGENCY INVOLVEMENT/IMPACT

Other agencies that would be involved in the formation of the Water District are as follows:

County: County Clerk (Formation Vote and Board of Director Vote), County Assessor (Formation Vote and Board of Director Vote), County Counsel, County Administrative Office

Non-County: LAFCO (formation proceeding), Paso Basin Advisory Committee

Others related to SGMA: City of Paso Robles, City of Atascadero, Atascadero Mutual Water Company, Templeton CSD, San Miguel CSD, Camp Roberts, County of Monterey, Garden Farms Community Water District, and other small water suppliers

FINANCIAL CONSIDERATIONS

\$350,000 from Flood Control District reserves has been allocated to fund the application process.

RESULTS

Approval of the recommended action will allow the Paso Robles Basin Water District Formation Application to be considered by LAFCO.

¹² Water Code § 37910.

¹³ If the Board does not timely direct the elections official to conduct the election, Government Code Section 57000(e)(2) provides that the elections official shall place the item on the ballot in accordance with certain procedural requirements.

Reference: 15APR21-BB-1

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ATTACHMENTS

1. A - Resolution of Application
2. B - Plan for Services
3. C - Proposed Water District Boundary Map
4. D - Five Year Operating Budget - Water District
5. E - Five Year Operating Budget - Flood Control District
6. F - Notice of Exemption